



DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
CHARITABLE REGISTRATION AND INVESTIGATION SECTION  
STATUTES AND REGULATIONS

AS OF AUGUST 2003

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## CHARITABLE FUND RAISING

45:17A-1 to 45:17A-17. Repealed by L.1994, c. 16, 24, eff. Aug. 9, 1994

45:17A-18. Charitable registration and investigation act; short title

This act shall be known and may be cited as the “Charitable Registration and Investigation Act.”

L.1994, c. 16, 1, eff. Aug. 9, 1994.

45:17A-19. Legislative findings and declaration

The Legislature finds and declares that in order to protect the public from fraud and deceptive practices, it is essential that information concerning charitable fund raising activities of charitable organizations, professional fund raisers, commercial co-venturers and solicitors be readily available to the people of this State. The Legislature declares that information concerning the financial ends and means of charitable fund raising in this State must be more readily available to the citizens by whose generosity such funds are raised. The Legislature declares that, to accomplish these ends, it is necessary to require the registration of charitable organizations, professional fund raisers, and solicitors with the Attorney General, and that the Attorney General have the powers necessary to obtain and disseminate to the public data concerning fund raising practices of these persons.

L.1994, c. 16, 2, eff. Aug. 9, 1994.

45:17A-20. Definitions

As used in this act:

“Attorney General” means the Attorney General of the State of New Jersey or his designee.

“Charitable organization” means: (1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3); or (2) any person who is, or holds himself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

“Charitable purpose” means: (1) any purpose described in section 501(c)(3), of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3); or (2) any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

“Charitable sales promotion” means an advertising or sales campaign, conducted by a commercial co-ven-

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turer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit a charitable organization or purpose.

“Commercial co-venturer” means any person who, for profit or other consideration is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds or any other thing of value for a charitable organization, and who advertises that the purchase or use of his goods, services, entertainment or any other thing of value will benefit a charitable organization.

“Contribution” means the conveyance, promise or pledge of money, credit, property, financial assistance or other thing of any kind or value in response to a solicitation. It does not include any of the following: bona fide fees, dues or assessments paid by members provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation; moneys received pursuant to a governmental grant or contract; or, personal services rendered by a volunteer.

“Federated fundraising organization” means a federation of independent charitable organizations which have voluntarily joined together for purposes of raising and distributing money.

“Fund raising counsel” means any person who is retained by a charitable organization for a fixed fee or rate to plan, manage, advise, consult or prepare material for or with respect to the solicitation in this State of contributions for a charitable organization, but who does not solicit contributions or employ, procure or engage any compensated person to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be a fund raising counsel. No attorney, accountant or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of the professional service or advice rendered, to be a fund raising counsel.

“Independent paid fund raiser” means any person who for compensation performs for a charitable organization any service in connection with which contributions are, or will be solicited in this State by that compensated person or by any compensated person he employs, procures, or engages, directly or indirectly to solicit contributions. A bona fide salaried officer, employee, or volunteer of a charitable organization shall not be deemed to be an independent paid fund raiser. No attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of that advice, to be an independent paid fund raiser.

“Local unit” means a charitable organization that is affiliated with a parent organization under terms specified in the parent organization’s charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or by-laws.

“Membership” means a relationship which entitles a person to the privileges, professional standing, honors or other direct benefit of the organization and either the right to vote or elect officers, or hold office in the organization. Membership shall not include any relationship granted solely upon making a contribution as a result of a solicitation.

“Parent organization” means a charitable organization which charters or affiliates local units under terms specified in the charitable organization’s charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws.

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“Person” means an individual, corporation, association, partnership, trust, foundation or any other entity, however established within or without this State.

“Registrant” means any person who has filed a registration statement with the Attorney General required by this act.

“Registration statement” means an initial registration, renewal, financial report, or any other document or report required pursuant to section 6, 7, 8, 10 or 11 of this act<sup>1</sup> to be filed with the Attorney General.

“Secretary of State” means the Secretary of State of the State of New Jersey.

“Solicitation” or “solicit” means the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value which will be used for a charitable purpose or benefit a charitable organization. Solicitation shall include, but not be limited to, the following methods of requesting or securing money, credit, property, financial assistance or other thing of value:

- (1) Any oral or written request;
- (2) The making of any announcement in the press, over the radio or television, by telephone, through the mail or any other media concerning an appeal or campaign by or for any charitable organization or purpose;
- (3) The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication which directly or by implication seeks to obtain a contribution;
- (4) The offer of, attempt to sell, or sale of any advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies or other tangible item in connection with which any appeal is made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale, or where any statement is made that the whole or any part of the proceeds from the sale will be used for any charitable purpose or benefit any charitable organization;
- (5) The use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value in connection with which any appeal is made for any charitable organization or purpose.

A solicitation shall take place whether or not the person making the solicitation receives any contribution, except that a charitable organization’s use of its own name in any communication shall not alone be sufficient to constitute a solicitation.

“Solicitor” means any individual who attempts to solicit or solicits contributions, for compensation, and who is subject to the control of an independent paid fund raiser. The term “control” means the direct management, direction and supervision of performance of a solicitor’s activities in connection with the solicitation of contributions by the independent paid fund raiser.

L.1994, c. 16, 3, eff. Aug. 9, 1994.

<sup>1</sup>N.J.S.A. 45:17A-23, 45:17A-24, 45:17A-25, 45:17A-27, 45:17A-28, respectively.

The Attorney General shall:

- a. Administer and enforce the provisions of this act;
- b. Propose and adopt rules pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.), to effectuate the purposes of this act.
- c. Conduct hearings pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) including the authority to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent documents, books, records, accounts, computer data, papers, or records;
- d. Prosecute proceedings before any court of competent jurisdiction for the enforcement of the provisions of this act;
- e. Keep a record of the names and addresses of all registered charitable organizations, fund raising counsels, independent paid fund raisers, and solicitors;
- f. Prescribe the fees for all registration statements, and other filings required by this act and set all bonding amounts as necessary in accordance with the provisions of this act. All fees shall be prescribed pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.);
- g. Publish and disseminate information concerning charities to the public;
- h. Examine each contract, registration statement and supporting document, if any, and determine whether they satisfy the requirements of this act;
- i. Perform any other functions and duties which may be necessary to carry out the provisions of this act.

L.1994, c. 16, 4.

#### 45:17A-22. Failure to satisfy registration requirements; notification; hearing

If the Attorney General determines that the registration or contract requirements established by this act are not satisfied, the Attorney General shall notify the filing party or registrant within 10 business days of receipt of the registration or contract. If notification is not sent within 10 business days: (1) a registration statement is accepted; or (2) performance may begin on a contract. Within 10 business days after receipt of a notification that the requirements have not been satisfied, the charitable organization, fund raising counsel, independent paid fund raiser, commercial co-venturer or solicitor, as appropriate, may satisfy the requirements or request a hearing pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.). Acceptance of a registration or performance of a contract pursuant to this section shall not foreclose the Attorney General from denying an application or taking other appropriate action based on information that may be subsequently uncovered.

L.1994, c. 16, 5, eff. Aug. 9, 1994.

#### 45:17A-23. Filing of registration statement; fees

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- a. A charitable organization, unless exempted from registration requirements pursuant to section 9 of this act,<sup>1</sup> shall file a registration statement with the Attorney General on forms prescribed by the Attorney General.
- b. It shall be unlawful for any charitable organization to solicit contributions or have contributions solicited in its behalf before the Attorney General has been given the opportunity to review the registration statement pursuant to section 5 of this act.<sup>2</sup> A renewal statement must be filed annually within six months after the close of the charitable organization's fiscal year. For good cause shown, the Attorney General may extend the time for the annual filing of the renewal statement and financial report for a period not to exceed 180 days, during which time the previous registration shall remain in effect. The request for an extension shall be in writing and received by the Attorney General before the filing deadline.
- c. All registration statements shall be signed by two authorized officers, including the chief fiscal officer of the organization, who shall certify that information contained in the registration statements is correct.
- d. The Attorney General shall prescribe all fees for the filing of all registration statements according to the provisions of this act. The fees for the filing of registration statements by charitable organizations may be graduated based upon the amount of contributions received during the previous fiscal year. A parent organization filing on behalf of one or more local units shall pay a single annual registration fee for itself and a fee for each local unit included in the registration statement.

L.1994, c. 16, 6, eff. Aug. 9, 1994.

<sup>1</sup>N.J.S.A. 45:17A-26.

<sup>2</sup>N.J.S.A. 45:17A-22.

#### 45:17A-24. Long form registration statement; contents

- a. Every charitable organization, except for those provided for in section 8 of this act <sup>1</sup> or exempt pursuant to section 9 of this act, <sup>2</sup> shall file a long form registration statement with the Attorney General.
- b. The long form shall contain the following:
  - (1) The name of the organization and any other name or names under which it intends to solicit contributions and the purposes for which it was organized;
  - (2) The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:
    - (a) a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction; and
    - (b) each principal salaried executive staff employee'' shall be limited to no more than the five most highly compensated employees in the organization.

- (3) A copy of the most recent Internal Revenue Service Form 990 and Schedule A(990) for every registrant if the organization filed these forms;
  - (4) A clear description of the specific programs and charitable purpose for which contributions will be used and a statement whether such programs are planned or are in existence;
  - (5) Whether any of the organization's officers, directors, trustees or principal salaried executive staff employees as defined in subparagraph (b) of paragraph (2) of subsection b. of this section are related by blood, marriage or adoption to each other or to any officers, agents or employees of any fund raising counsel or independent paid fund raiser under contract to the organization, or are related by blood, marriage or adoption to any chief executive employee, any other employee of the organization with a direct financial interest in the transaction, or any partner, proprietor, director, officer, trustee, or to any shareholder of the organization with more than a two percent interest of any supplier or vendor providing goods or services to the organization and the name and business and home address and telephone number of each related party;
  - (6) The amount of any grant or financial assistance from any agency of government in its preceding fiscal year; and
  - (7) Any other information as may be prescribed by rules adopted by the Attorney General. In prescribing the requirements of the long form, the Attorney General shall permit a charitable organization to incorporate by reference any information reported by the organization on its Service Form 990 and Schedule A(990).
- c. With initial registration only, every charitable organization required to file a long form registration shall also file the following; provided, that any changes in the accuracy of this information shall be reported to the Attorney General pursuant to subsection e. of section 14 of this act<sup>3</sup>:
- (1) A copy of the organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws;
  - (2) A statement setting forth the place where and the date when the organization and its tax exempt status was legally established, the form of its organization, with copies of federal or state tax exemption determination or exemption ruling letters;
  - (3) The principal street address and telephone number of the organization and the address and telephone number of each office in this State. If the organization does not maintain an office in this State, the name and address of the individual having custody of its financial records in this State shall be disclosed;
  - (4) The name, street address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;
  - (5) The date when the organization's fiscal year ends;
  - (6) A statement whether:
    - (a) The organization is authorized by any other state to solicit contributions, and, if so, a listing of the states in which authorization has been obtained;
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- (b) The organization or any of its present officers, directors, executive personnel or trustees are or have ever been enjoined in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;
- (c) The organization's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension or revocation; and
- (d) The organization has voluntarily entered into an assurance or voluntary discontinuance or agreement with any jurisdiction or federal agency or officer; and

(7) Whether the organization intends to solicit contributions from the general public.

- d. (1) Every charitable organization required to file a long form registration shall file an annual financial report with the Attorney General. The annual financial report shall include: a balance sheet; a statement of support revenue, expenses and changes in fund balance; a statement of functional expenses at least divided into program, management, general, and fund raising; and such other information as the Attorney General shall by rule require.
- (2) The annual financial report of every charitable organization which received more than \$100,000 in gross revenue during its most recently completed fiscal year shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereon.

The annual financial reports of all organizations receiving more than \$25,000 but less than \$100,000 shall be certified by the organization's president or other authorized officer of the organization's governing board and at the request of the Attorney General, the organization shall submit an audited financial statement prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant.

- (3) The Attorney General may accept a copy of a current financial report previously prepared by a charitable organization for another state agency or officer in compliance with the laws of that state, provided that the report filed with the other state agency or officer shall be substantially similar in content to the report required by this subsection.
- (4) An independent member agency of a federated fund raising organization shall independently comply with the provisions of this subsection.
- e. In order to register its qualified local units pursuant to subsection c. of section 9 of this act, a parent organization registered pursuant to this section shall include with its initial registration and annual renewal statement a separate statement that provides the following:

- (1) The name, principal street address, and phone number of all local units within this State that it is registering;
- (2) The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year; and



- (3) A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements of subsection c. of section 9 of this act.

L.1994, c. 16, 7, eff. Aug. 9, 1994.

<sup>1</sup> N.J.S.A. 45:17A-25.

<sup>2</sup> N.J.S.A. 45:17A-26.

<sup>3</sup> N.J.S.A. 45:17A-31.

#### 45:17A-25. Short form registration

- a. The following charitable organizations shall be required to file a short form registration on forms prescribed by the Attorney General:
- (1) Charitable organizations or organizations engaging in a charitable fund raising campaign which do not receive gross contributions in excess of \$25,000 during a fiscal year, if all of their functions including fund raising activities are carried on by volunteers, members, officers or persons who are not compensated for soliciting contributions; except that, if the gross contributions, whether or not all is received by any charitable organization during any fiscal year, are in excess of \$25,000 it shall, within 30 days after the date on which it shall have received the contributions, register with and report to the Attorney General as required by section 7 of this act;<sup>1</sup>
  - (2) Fraternal, patriotic, social or alumni organizations, historical societies, and similar organizations organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, when solicitation of contributions is confined to their membership and solicitation is performed by members of that organization;
  - (3) Persons requesting any contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary;
  - (4) Any local post, camp, chapter or similarly designated element, or a county unit of that element, of a bona fide veterans' organization which issues charters to the local elements throughout this State, or to any veterans' organization chartered under federal law or to any service foundation of such an organization recognized in its bylaws.
- b. The short form shall contain the following:
- (1) Name and address of the organization;
  - (2) Whether the organization has engaged an independent paid fund raiser, fund raising counsel or commercial co-venturer;
  - (3) The purpose for which the charitable organization is organized;
  - (4) The purposes for which the funds are raised;
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- (5) The tax status of the charitable organization;
  - (6) The reason the organization is eligible to file a short form registration;
  - (7) A copy of the organization's most recent Internal Revenue Service Form 990 and Schedule (A)990 if the organization filed these forms;
  - (8) Any other information as may be prescribed by rules adopted by the Attorney General.
- c. In order to register its qualified local units pursuant to subsection c. of section 9 of this act,<sup>2</sup> a parent organization registered pursuant to this section shall include with its initial registration, a copy of the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws, and shall include with its initial registration and annual renewal statement a separate statement that provides the following:
- (1) The name, principal street address, and phone number of all local units within this State that it is registering;
  - (2) The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year;
  - (3) A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements of subsection c. of section 9 of this act.
- d. Nothing in subsection c. of this section shall be construed to require a parent organization to register any or all of its local units.

L.1994, c. 16, 8, eff. Aug. 9, 1994.

<sup>1</sup> N.J.S.A. 45:17A-24.

<sup>2</sup> N.J.S.A. 45:17A-26.

#### 45:17A-26. Exemptions from registration requirements

- a. The registration requirements of this act shall not apply to any religious corporation, trust, foundation, association or organization incorporated under the provisions of Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes or established for religious purposes. Any agency or organization incorporated or established for charitable purposes and engaged in effectuating one or more charitable purposes, which is affiliated with, operated by, or supervised or controlled by a corporation, trust, foundation, association, or organization incorporated or established for religious purposes, or any other religious agency or organization shall also be exempt.
- b. The registration requirements of this act shall not apply to any educational institution, the curriculums of which in whole or in part are registered or approved by the State Department of Education or the State Department of Higher Education, either directly or by acceptance of accreditation by an accredited body recognized by these departments; an educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families; or a library registered by the State Depart-

ment of Education, provided that the annual financial report of that institution or library shall be filed with the State Department of Education where it shall be open for public inspection.

c. A charitable organization that meets all of the following requirements shall be considered registered as required by this act:

- (1) The charitable organization is a local unit of a parent organization which is registered pursuant to this act;
  - (2) The parent organization has provided all information concerning the local unit required by subsection e. of section 7 or subsection c. of section 8 of this act;<sup>1</sup>
  - (3) All solicitations made by the local unit are made by members of the local unit or volunteers;
  - (4) The local unit does not employ a fund raising counsel or independent paid fund raiser or utilize paid staff in preparation of materials or records concerning or related to the solicitations; and
  - (5) (a) The local unit does not receive gross contributions in excess of \$25,000 during the fiscal year; or  
(b) The local unit is an organization that limits membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State.
- d. Nothing in subsection c. of this section shall be construed to require a parent organization to register any or all of its local units.

L.1994, c. 16, 9, eff. Aug. 9, 1994.

<sup>1</sup>N.J.S.A. 45:17A-24 or 45:17A-25.

45:17A-27. Annual registration of fund raising counsel, independent paid fund raiser; fees; relationship with charitable organization to be set out in written contract

- a. It shall be unlawful for any person to act as a fund raising counsel or independent paid fund raiser unless registered annually with the Attorney General. Registration statements shall be on forms prescribed by the Attorney General. A registration statement shall be signed and sworn to by the principal officer of the fund raising counsel or independent paid fund raiser and shall contain information as prescribed by rules adopted by the Attorney General.
- b. The registration statements shall be accompanied by a fee prescribed pursuant to the provisions of this act, except that a fund raising counsel or independent paid fund raiser which is a partnership or corporation which registers shall pay a single fee. Each registration shall expire on June 30.
- c. The Attorney General shall examine the initial registration statement and supporting documents filed by a fund raising counsel or independent paid fund raiser pursuant to section 5 of this act.<sup>1</sup>
- d. The relationship between a charitable organization and a fund raising counsel or independent paid fund raiser shall be set forth in a written contract. The fund raising counsel or independent paid fund raiser shall file a copy of the contract with the Attorney General at least 10 days prior to the performance by the fund

raising counsel or independent paid fund raiser of any service within this State. It shall be unlawful for any solicitation pursuant to the contract to begin before the Attorney General has reviewed the contract pursuant to section 5 of this act. The contract shall be signed by two authorized officials of the charitable organization, one of whom must be a member of the organization's governing body, and the authorized contracting officer for the fund raising counsel or independent paid fund raiser.

e. The contract for a fund raising counsel or independent paid fund raiser either of whom at any time has or intends to have custody, control, or access to a charitable organization's money, shall contain the following:

- (1) A statement of the respective obligations of the professional fund raiser and the charitable organization;
- (2) A clear statement of the fees or rate which will be paid to the fund raising counsel or independent paid fund raiser;
- (3) The projected commencement and termination dates of the solicitation campaign;
- (4) A statement as to whether the fund raising counsel or independent paid fund raiser will have custody, control or access to contributions;
- (5) A statement as to the guaranteed minimum percentage of the gross receipts from contributions which will be remitted to the charitable organization, if any, or if the solicitation involves the sale of goods, services or tickets to a fund raising event, the percentage of the purchase price which will be remitted to the charitable organization, if any. Any stated percentage shall exclude any amount which the charitable organization is to pay as fund raising costs;
- (6) A statement of the percentage of the gross revenue from which the fund raising counsel or independent paid fund raiser will be compensated. If the compensation of the fund raising counsel or independent paid fund raiser is not contingent upon the number of contributions or the amount of revenue received, its compensation shall be expressed as a reasonable estimate of the percentage of the gross revenue, and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the fund raising counsel or independent paid fund raiser regarding the solicitation to be conducted by the independent paid fund raiser;
- (7) The bank and branch where all moneys will be deposited and each account number; and
- (8) Any other information as may be prescribed by the Attorney General.

f. A fund raising counsel or independent paid fund raiser, either of whom at any time has or intends to have custody, control, or access to a charitable organization's money, shall, if requested by the Attorney General, make available the following information:

- (1) Each location and telephone number from which the solicitation is conducted;
  - (2) The name, home address and telephone number of each person responsible for directing and supervising the conduct of the campaign and whether the person has been adjudged liable in an administrative or civil action or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purpose of this
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paragraph, a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction; and

(3) A statement of the charitable purpose for which the solicitation campaign is being conducted.

g. If either a fund raising counsel or independent paid fund raiser at any time has or intends to have custody, control, or access to a charitable organization's money, that fund raising counsel or independent paid fund raiser shall:

- (1) At the time of making application for registration, file with the Attorney General a bond in which it shall be the principal obligor, which shall for the initial application be in the sum of \$20,000 and thereafter shall be an amount prescribed by a rule adopted by the Attorney General pursuant to subsection f. of section 4 of this act<sup>2</sup>. The bond shall provide for one or more sureties whose liability in the aggregate shall at least equal that sum. The fund raising counsel or independent paid fund raiser shall maintain the bond in effect during the entire period of registration. The bond shall be payable to the Attorney General for the benefit of any person who may have a cause of action against the principal obligor of the bond for any violation of this act;
- (2) Deposit each contribution collected by the fund raising counsel or independent paid fund raiser, in its entirety and within five days of its receipt, in an account at a bank or other federally insured financial institution. The account shall be in the name of the charitable organization with whom the fund raising counsel or independent paid fund raiser has contracted and the charitable organization shall have sole benefit and control of the account and all withdrawals;
- (3) Within 40 days after a solicitation campaign has been completed, or in the case of a campaign lasting more than 12 months, within 40 days of the end of the charitable organization's fiscal year, file with the Attorney General a financial report for the campaign on such forms as the Attorney General may prescribe. Those forms shall include, but not be limited to, gross revenues, an itemization of all expenses incurred and the bank and branch where all moneys are deposited. This report shall be signed and sworn to by two authorized officials, one from the charitable organization and one from the fund raising counsel or independent paid fund raiser.

L.1994, c. 16, 10, eff. Aug. 9, 1994.

<sup>1</sup> N.J.S.A. 45:17A-22.

<sup>2</sup> N.J.S.A. 45:17A-21.

#### 45:17A-28. Solicitors of independent paid fund raisers required to register annually; fees

It shall be unlawful for any person to act as a solicitor of an independent paid fund raiser required to register pursuant to this act unless the solicitor registers annually. Registration statements shall be on forms prescribed by the Attorney General and accompanied by a prescribed fee. The Attorney General shall review the statement pursuant to section 5 of this act <sup>1</sup> and prescribe the fees pursuant to subsection f. of section 4 of this act.<sup>2</sup>

L.1994, c. 16, 11, eff. Aug. 9, 1994.

<sup>1</sup> N.J.S.A. 45:17A-22.

<sup>2</sup> N.J.S.A. 45:17A-21.

#### 45:17A-29. Written contract from commercial co-venturer

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- a. Every charitable organization which permits a charitable sales promotion to be conducted on its behalf shall obtain a written contract from the commercial co-venturer and shall file a copy of the agreement with the Attorney General at least 10 days prior to the initiation of that charitable sales promotion.
- b. A charitable organization shall file in writing on forms prescribed by the Attorney General the following information at the conclusion of the charitable sales promotion:
  - (1) As reported to the charitable organization, the gross amount of income received by the commercial co-venturer attributable to the charitable sales promotion, solicitation or venture undertaken;
  - (2) The amount of money or other contribution remitted to the organization covering each event or portion of an extended charitable sales promotion; and
  - (3) Any other information as may be required by rules adopted by the Attorney General.
- c. All filings pursuant to this section shall be accompanied by a fee prescribed pursuant to the provisions of this act.
- d. The commercial co-venturer shall disclose in each advertisement for the charitable sales promotion the dollar amount or percent per unit of goods or services purchased or used that will benefit the charitable organization or purpose. If the actual dollar amount or percent cannot reasonably be determined prior to the final date of the charitable sales promotion, the commercial co-venturer shall disclose an estimated dollar amount or percent. Any such estimate shall be reasonable and shall be based upon all of the relevant facts known to the commercial co-venturer and the charitable organization regarding the charitable sales promotion.

L.1994, c. 16, 12, eff. Aug. 9, 1994.

45:17A-30. Disclosure of required information prior to solicitation

- a. Prior to soliciting a contribution, either orally or by written request, except for any in-person solicitation, any independent paid fund raiser, commercial co-venturer, solicitor, or charitable organization shall clearly and conspicuously disclose any information as prescribed by the rules adopted by the Attorney General.
- b. In the case of any solicitation campaign conducted orally, whether by telephone or otherwise, except for any in-person solicitation, a written confirmation or receipt or written reminder shall, upon request of the contributor, be sent and shall include a clear and conspicuous disclosure of any information as prescribed by the rules adopted by the Attorney General.
- c. Except as otherwise provided in section 14 of this act,<sup>1</sup> registration statements, reports, notices, contracts or agreements between charitable organizations and fund raising counsels or independent paid fund raisers and commercial co-venturers and all other documents and information required to be filed under this act with the Attorney General are public records and shall be open to the general public at such time and under such conditions as the Attorney General may prescribe.
- d. In addition to all other requirements imposed by this act, a charitable organization that limits its member-

ship to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or that is a parent organization that includes local units that so limit membership shall:

- (1) At least 10 days prior to initiating any solicitation campaign involving multiple solicitations, give written notice describing the nature, purpose and the proposed dates and location of the solicitations to the Attorney General and the county prosecutor of any county in which the solicitations will be made, unless the organization limits its membership to persons who are or were employed by the State, or is a parent organization with local units in more than one county, in which case notice shall be given to the Attorney General who shall notify the appropriate county prosecutors;
- (2) Upon request, make any records required by this act available for inspection or provide an audited financial statement of financial records concerning the organization's fund raising activities to the Attorney General.

L.1994, c. 16, 13.

<sup>1</sup> N.J.S.A. 45:17A-31.

#### 45:17A-31. Recordkeeping requirements

- a. Every charitable organization, unless exempted pursuant to subsection a. or b. of section 9 of this act,<sup>1</sup> and every fund raising counsel, independent paid fund raiser and commercial co-venturer subject to the provisions of this act shall keep complete and accurate records of its activities in this State as may be required by this act, in such form as will enable them to accurately provide the information required by this act or regulations promulgated under the authority of this act. The records shall be made available upon demand by the Attorney General. Where such records include the names, addresses and telephone numbers of contributors and amounts contributed by them and home addresses and home telephone numbers of any of the organization's officers, directors, trustees, employees or vendors required to provide such information pursuant to paragraph (5) of subsection b. of section 7 of this act,<sup>2</sup> this information shall not be considered a matter of public record and shall not be made available for public inspection, shall not be used for a purpose inconsistent with this act, and shall be removed from the record in the custody of the Attorney General at such time that such information is no longer necessary for the enforcement of this act. The records shall be maintained for a period of at least three years after the end of the period of time to which they relate.
  - b. In addition to subsection a. of this section, every fund raising counsel or independent paid fund raiser subject to subsection g. of section 10 of this act<sup>3</sup> shall maintain during each solicitation campaign and for not less than three years after its completion, the following records:
    - (1) A record of all contributions, including the name and address of each contributor and the date and amount of the contribution, except that record keeping with regard to donations of goods and personal property shall be limited to the dollar value received by or accruing to the charitable organization and shall be determined by regulation;
    - (2) The name, location and account number of each bank or other financial institution in which the fund raising counsel or independent paid fund raiser has deposited revenue from the solicitation campaign; and
    - (3) Any other information as may be prescribed by rules adopted by the Attorney General.
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- c. In addition to subsections a. and b. of this section, a fund raising counsel or independent paid fund raiser subject to subsection g. of section 10 of this act shall also maintain during each solicitation campaign, and for not less than three years after the completion of such campaign, the following records, which shall be available for inspection upon demand by the Attorney General:
  - (1) The name, home address and telephone number of each employee, solicitor or other person involved in the solicitation;
  - (2) Records of all revenue received and expenses incurred in the course of the solicitation campaign; and
  - (3) Records of the name, address and telephone number of each contributor donating tickets and the number of tickets donated, and of the name, address and telephone number of each organization receiving donated tickets for use by others, including the number of tickets for use by others, if an independent paid fund raiser sells tickets to an event and represents that tickets will be donated for use by another.
- d. A fund raising counsel or independent paid fund raiser who performs services for a charitable organization exempt pursuant to section 9 of this act shall nonetheless be subject to the requirements of this section.
- e. Any material change in any information filed with the Attorney General pursuant to this act shall be reported in writing to the Attorney General within 10 business days of the change.

L.1994, c. 16, 14, eff. Aug. 9, 1994.

<sup>1</sup>N.J.S.A. 45:17A-26.

<sup>2</sup> N.J.S.A. 45:17A-24.

<sup>3</sup> N.J.S.A. 45:17A-27.

45:17A-32. Statements required to be truthful; unlawful acts and practices

- a. Any statement, whether oral or written, made by a charitable organization, or on behalf of a charitable organization by persons including, but not limited to commercial co-venturers, fund raising counsels, independent paid fund raisers or solicitors shall be truthful.
- b. A charitable organization shall establish and exercise control over fund raising activities conducted for its benefit, including approval of all written contracts and agreements, and shall assure that fund raising activities are conducted without coercion.
- c. The following acts and practices are declared unlawful as applied to the planning, conduct, or execution of any solicitation or charitable sales promotion:
  - (1) To misrepresent the purpose or nature of the charitable institution or the purpose or beneficiary of a solicitation; to solicit contributions for a purpose other than the charitable purpose expressed in the statement of the charitable organization or expend contributions in a manner inconsistent with that purpose, or to fail to disclose any material fact. A misrepresentation may be accomplished by words or conduct;
  - (2) To violate or fail to comply with any of the applicable provisions of this act or the rules adopted under authority

of this act;

- (3) To violate or fail to comply with any of the applicable provisions of the consumer fraud law, P.L.1960, c. 39 (C.56:8-1 et seq.) or the regulations adopted pursuant to that act;
- (4) To utilize a name, symbol or statement so closely related or similar to that used by another charitable organization and registered by that organization with the United States Patent and Trademark Office or registered pursuant to R.S.56:2-1 et seq. that its use would tend to confuse or mislead a solicited person or to solicit contributions in a manner or through representations that falsely imply or are likely to create the mistaken belief that the contributions are solicited by or on behalf of another charitable organization;
- (5) To utilize or exploit registration so as to lead any person to believe that registration constitutes or implies an endorsement or approval by the State;
- (6) To distribute honorary membership or courtesy cards or cards of a similar nature identifying the organization in connection with or in any manner related to the solicitation of funds or contributions for or on behalf of the organization in the case of any charitable organization that limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or that is a parent organization that includes local units that so limit membership;
- (7) To utilize information, statements or communications that, although literally true, are presented in a manner that has the capacity to mislead the average consumer; and
- (8) To engage in other unlawful acts and practices as may be determined by rules adopted by the Attorney General.
  - d. It shall be unlawful for any charitable organization to enter into any contract with any person who is required to have registered and failed to do so.
  - e. It shall be unlawful for any person to represent that tickets to events will be donated by another, unless the following requirements have been met:
    - (1) The fund raising counsel or independent paid fund raiser shall obtain commitments, in writing and notarized, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept and for which they are able to provide transportation; copies of such written commitments shall be filed with the Attorney General;
    - (2) The independent paid fund raiser has taken measures to prevent solicitation of contributions for donated tickets in excess of the number of ticket commitments received from charitable organizations; and
    - (3) The number of tickets sold will not be greater than the number of seats available at the facility for each event or performance.

L.1994, c. 16, 15, eff. Aug. 9, 1994.

Amended by L.1998, c. 123, 1, eff. Nov. 9, 1998.

45:17A-33. Violations; penalties

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- a. For purposes of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), the Attorney General or his designee shall constitute the agency head and have the final decision making power.
- b. After notice and an opportunity for a hearing, the Attorney General may revoke, or suspend any registration upon a finding that the registrant:
  - (1) Has filed a registration statement containing false or misleading facts or omitting material facts;
  - (2) Has violated or failed to comply with any of the provisions of this act or the rules adopted under authority of this act;
  - (3) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
  - (4) Has been convicted of any criminal offense committed in connection with the performance of activities regulated under this act or any criminal offense involving untruthfulness or dishonesty or any criminal offense relating adversely to the registrant’s fitness to perform activities regulated by this act. For the purposes of this paragraph, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;
  - (5) Has had the authority to engage in charitable activities denied, revoked or suspended by New Jersey or any other state or jurisdiction;
  - (6) Has engaged in other forms of misconduct as may be determined by rules adopted by the Attorney General.
- c. Whenever it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in, any act or practice declared unlawful by this act, or when the Attorney General determines it to be in the public interest to inquire whether a violation may exist, the Attorney General may:
  - (1) Require any person to file, on a form to be prescribed by the Attorney General, a statement or report in writing under oath, or otherwise, concerning any relevant and material information in connection with an act or practice subject to this act;
  - (2) Examine under oath any person in connection with any act or practice subject to this act;
  - (3) Inspect any location from which the activity regulated by this act is conducted;
  - (4) Examine any goods, ware or items used in the rendering of any of the services contained in this act;
  - (5) Require an audited financial statement of the financial records of the organization or person registered, exempted or required to be registered under this act, prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereof;
  - (6) Examine any book, document, account, computer data, literature, publication or paper maintained by or for any organization or person registered, exempted or required to be registered under this act, in the course of

engaging in the activities regulated by this act;

- (7) Apply to Superior Court for an order to impound any record, book, document, account, computer data, literature, publication, paper, goods, ware, or item used or maintained by any organization or person registered, exempted or required to be registered under this act in the regular course of engaging in the activities regulated by this act or rules adopted under this act;
- (8) In order to accomplish the objectives of this act, or the rules adopted under this act, hold investigative hearings as necessary and issue subpoenas to compel the attendance of any person or the production of books, records, computer data, literature, publication or papers at any investigative hearing or inquiry.
- d. Any person who engages in any conduct or an act in violation of any provision of this act and who has not previously violated this act shall, in addition to any other relief authorized by this or any other law, be liable for a civil penalty of not more than \$7,500 for the first violation of this act.

For a second violation of this act, or if a person is found liable for more than one violation of this act within a single proceeding, the liability for the second violation shall not exceed a civil penalty in the amount of \$15,000.

For a third violation of this act, or if a person is found liable for more than two violations of this act within a single proceeding, the liability for a third or any succeeding violation shall not exceed a civil penalty in the amount of \$15,000 for each additional violation.

In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action for the collection or enforcement of civil penalties for the violation of any provision of this act. The action may be brought in a summary manner, pursuant to “the penalty enforcement law,” N.J.S.2A:58-1 et seq. and the Rules Governing the Courts of the State of New Jersey governing actions for the collection of civil penalties, in the Municipal or Special Civil Part of the Law Division of the Superior Court in the municipality or county where the offense occurred. Process in the action may be by summons or warrant. If the defendant in the action fails to answer the action, the court shall, upon finding that an unlawful act or practice has been committed by the defendant, issue a warrant for the defendant’s arrest in order to bring the person before the court to satisfy the civil penalties imposed.

In an action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. An action alleging the unregistered practice of the activities regulated by this act may be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In an action brought pursuant to this act, the Attorney General or the court may order the payment of attorney’s fees and costs for the use of the State.

- e. Whenever it shall appear to the Attorney General that a violation of this act has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. In the proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter any orders necessary to prevent the performance of an unlawful practice in the future and to remedy fully any past unlawful activity.
- f. Upon the failure of any person to comply within 10 days after service of any order of the Attorney General
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directing payment of penalties, attorney's fees, costs or restoration of moneys or property as authorized by this act, the Attorney General may issue a certificate to the Clerk of the Superior Court that the person is indebted to the State for the payment. A copy of the certificate shall be served upon the person against whom the order was entered. The clerk shall immediately enter upon the record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which each payment was directed, the amount of each payment, a listing of property ordered restored, and the date of the certification. The entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court and the Attorney General shall have all rights and remedies of a judgment creditor, in addition to exercising any other available remedies.

- g. If a person fails or refuses to file any statement or report, or fails or refuses to grant access to premises from which activities regulated by this act are conducted in any lawfully conducted investigative matter, or fails to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:
  - (1) Adjudging that person in contempt of court and assessing civil penalties in accordance with the amounts prescribed by this act;
  - (2) Enjoining the conduct of any practice in violation of this act; or
  - (3) Granting other relief as required.
- h. If a person who refuses to testify or produce any computer data, book, paper, or document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, or convict him of a crime, is directed to testify or to produce the computer data, book, paper, or document by the Attorney General, he shall comply with the direction.

A person who is entitled by law to and does assert a privilege, and who complies with the direction of the Attorney General, shall not thereafter be prosecuted or subject to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving the testimony or from any civil or administrative action arising from the testimony.
- i. In addition or as an alternative to revocation or suspension of a registration, the Attorney General may, after affording an opportunity to be heard and finding a violation of this act:
  - (1) Assess civil penalties in accordance with this act;
  - (2) Direct that any person cease and desist from any act or practice in violation of this act or take necessary affirmative corrective action with regard to any unlawful act or practice; or
  - (3) Order any person to restore to any person aggrieved by an unlawful act or practice any money or property, real or personal, acquired by means of any unlawful act or practice, except that the Attorney General shall not order restoration in a dollar amount greater than those moneys received by the registrant or his agent or any other person violating this act.
- j. Whenever a person engages in any act or practice in violation of this act the Attorney General may, after

notice and opportunity to be heard and upon a finding that the act or practice has occurred, enter an order:

- (1) Directing the person to cease and desist from that unlawful act or practice;
  - (2) Assessing civil penalties in accordance with this act;
  - (3) Directing that person restore to any person aggrieved by the unlawful act or practice any money or property, real or personal, acquired by means of the unlawful act or practice, except that the Attorney General shall not order restoration in a dollar amount greater than those moneys received by the registrant, agent or any other person violating this act; or
  - (4) Directing payment of attorney's fees and costs for the use of the State.
- k. When it shall appear to the Attorney General that a person against whom an order pursuant to this section has been entered has violated the order, the Attorney General may initiate a summary proceeding in the Superior Court for enforcement of the order. Any person found to have violated such an order shall be ordered to comply with the prior administrative order and may be ordered to pay civil penalties in the amount of not more than \$25,000 for each violation of the order. If a person fails to pay a civil penalty assessed by the court for violation of an order, the court assessing the unpaid penalty is authorized, upon application of the Attorney General, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.
  - l. In any administrative proceeding on a complaint alleging a violation of this act, the Attorney General may issue subpoenas to compel the attendance of witnesses or the production of computer data, books, records, or documents at the hearing on the complaint as provided by this act.
  - m. In addition to any other action or remedy available under this act, a charitable organization aggrieved by a violation of paragraph (4) of subsection c. of section 15<sup>1</sup> of this act may initiate a civil action or assert a counterclaim in any court of competent jurisdiction against the violator. Upon establishing the violation, the charitable organization shall recover treble its damages or treble the violator's profits, whichever is greater. In all actions under this subsection the court shall award reasonable attorney's fees, filing fees and reasonable costs of suit.
  - n. Notwithstanding any other provision of this section to the contrary, a parent organization may be held accountable for actions related to information filed on behalf of a local unit only if the parent organization has filed information knowing that the information is false or misleading or knowing that material facts are omitted.
  - o. Notwithstanding any other provision of this section to the contrary, any local unit that has provided to its parent organization timely, truthful and complete information and otherwise conducted itself in compliance with the provisions of this act, shall not be held accountable for the misconduct of a parent organization, including, but not limited to, the failure of the parent organization to file timely reports on behalf of the local unit.

L.1994, c. 16, 16, eff. Aug. 9, 1994.

<sup>1</sup>N.J.S.A. 45:17A-32.

45:17A-34. Common-law powers of attorney general not limited

Nothing in this act shall be construed to limit, impair or modify any of the common law powers previously afforded to the Attorney General under the common law.

L.1994, c. 16, 17, eff. Aug. 9, 1994.

#### 45:17A-35. Powers of municipalities to regulate within their jurisdiction not restricted

Nothing in this act shall be construed to limit, impair or modify the ability of any municipality to enact rules or ordinances to regulate the solicitation of contributions within its jurisdiction, provided that those rules or ordinances are in addition to and not duplicative of or in conflict with the provisions of this act. To the extent that a municipal ordinance is violative of this act it is invalid.

L.1994, c. 16, 18, eff. Aug. 9, 1994.

#### 45:17A-36. Validity of existing registration not affected

Nothing in this act shall affect the validity of any registration previously issued by the Attorney General, but all persons currently registered shall in all other respects be subject to the provisions of this act.

L.1994, c. 16, 19, eff. Aug. 9, 1994.

#### 45:17A-37. Establishment of telephone information line

Section effective April 11, 1995.

- a. The Attorney General shall establish a telephone information line which shall be readily accessible to the public which shall offer information concerning the charitable organizations, fund raising counsels, independent paid fund raisers and solicitors registered in accordance with the requirements of this act.
- b. The information available to the public through the telephone information line shall include:
  - (1) The public information, as required by this act, provided by registration statements, reports, notices, contracts or agreements, including those between charitable organizations and fund raising counsels, independent paid fund raisers, and commercial co-venturers;
  - (2) The information provided by a solicitor in an application for registration and reregistration in accordance with section 11 of this act<sup>1</sup>;
  - (3) Any other information which the Attorney General deems appropriate.

L.1994, c. 16, 20.

<sup>1</sup>N.J.S.A. 45:17A-28.

#### 45:17A-38. Statement regarding information on file to appear on printed material

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Any printed solicitation, written confirmation, receipt or written reminder of a contribution issued by a charitable organization, independent paid fund raiser or solicitor concerning a solicitation or contribution on behalf of a charitable organization that is registered pursuant to this act shall contain the following statement which shall be conspicuously printed:

“INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING 000-000-0000.<sup>1</sup> REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.”

L.1994, c. 16, 21.

<sup>1</sup>Currently, (201) 504-6215.

#### 45:17A-39. Persons covered by act

The provisions of this act shall apply to any person engaging in any of the activities regulated by this act, including persons whose principal place of business is located outside this State.

L.1994, c. 16, 22, eff. Aug. 9, 1994.

#### 45:17A-40. Fees

Fees shall be established, prescribed or charged by the Attorney General pursuant to his regulatory authority to the extent necessary to defray all proper expenses incurred by the Attorney General and any staff employed to administer this act, provided that fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required and provided, further, that any fees set by the Attorney General shall not exceed the following amounts:

- a. A charitable organization which is required pursuant to section 8 of this act <sup>1</sup> to file a short form registration statement and received gross contributions of not more than \$10,000 during the most recently filed fiscal year shall not be required to pay an annual registration fee.
  - b. A charitable organization which is required pursuant to section 8 of this act to file a short form registration statement and received gross contributions in excess of \$10,000 during the most recently filed fiscal year of the organization shall pay an annual registration fee of not more than \$30 a year.
  - c. A charitable organization which is required pursuant to section 7 of this act <sup>2</sup> to file a long form registration statement and received gross contributions of not more than \$100,000 during the most recently filed fiscal year of the organization shall pay an annual registration fee of not more than \$60 a year.
  - d. A charitable organization which is required pursuant to section 7 of this act to file a long form registration statement and received gross contributions of more than \$100,000 but not more than \$500,000 during the most recently filed fiscal year of the organization shall pay an annual registration fee of not more than \$150 a year.
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- e. A charitable organization which is required pursuant to section 7 of this act 2 to file a long form registration statement and received gross contributions of more than \$500,000 during the most recently filed fiscal year of the organization shall pay an annual registration fee of not more than \$250 a year.
- f. Contract filing fees established pursuant to this act shall be set at not more than \$30 for each such fee.
- g. A parent organization that registers local units in accordance with the provisions of subsection e. of section 7 or subsection c. of section 8 of this act shall pay an additional fee not to exceed \$10 for each local unit.

All fees payable to the Attorney General and any civil penalties imposed by the Attorney eneral in accordance with the provisions of this act shall be paid to the Attorney General and shall be forwarded to the State Treasurer and become part of the General Fund. These fees and penalties shall be available to the Attorney General on a nonlapsing basis to effectuate the purposes of this act.

L.1994, c. 16, 23, eff. Aug. 9, 1994.

<sup>1</sup>N.J.S.A. 45:17A-25.

<sup>2</sup>N.J.S.A. 45:17A-24.

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## N.J. Administrative Code

### 13:48-1.1 Director

- (a) The Director of the Division of Consumer Affairs shall be the person charged with the administration and enforcement of the Charitable Registration and Investigation Act, P.L. 1994, c.16.

### 13:48-1.2 Applicability

- (a) These rules shall govern the registration and charitable fund raising activities of charitable organizations, federated fund raising organizations, professional fund raisers, solicitors, and commercial co-venturers, pursuant to the Charitable Registration and Investigation Act of 1994.
- (b) These rules shall apply to any person engaging within this State in any of the activities regulated by the Act, including persons whose principal place of business is located outside this State.
- (c) Upon initial request by a potential registrant, or as the result of independent information received by the Attorney General, a determination form, to determine the applicability of the Act, will be supplied. There is no fee for this form, which may be requested by telephone, facsimile, or letter sent to the address set forth in N.J.A.C. 13:48-1.4.

### 13:48-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

“Act” means the Charitable Registration and Investigation Act of 1994, P.L. 1994, c.16.

“Address” means the principal street address where a person or organization is most reasonably likely to receive actual notice of a mailing.

“Attorney General” means the Attorney General of the State of New Jersey or, as applicable, the Attorney General’s designee, the Director of the Division of Consumer Affairs.

“Caging agent” means the person, firm or company responsible for retrieving responses to solicitations from a return post office box, depositing any monies received and reporting the amount of contributions and non-contributions from the responses.

“Campaign” means an operation or plan organized to solicit a contribution to further a charitable organization’s stated or implied purpose.

“Certified public accountant” includes an individual licensed by the New Jersey Board of Accountancy to practice as a certified public accountant or its equivalent in another jurisdiction; an individual licensed as a public accountant by the New Jersey Board of Accountancy to practice as a public accountant or its equivalent in another

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jurisdiction; or an individual licensed to practice as a registered municipal accountant by the New Jersey Board of Accountancy.

“Charitable organization” means:

1. Any person determined by the Federal Internal Revenue Service to be a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or
2. Any person who is, or holds himself or herself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

“Charitable purpose” means:

1. Any purpose described in section 501(c)(3), of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3); or
2. Any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

“Charitable sales promotion” means an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit a charitable organization or purpose.

“Commercial co-venturer” means any person, who for profit or other consideration, is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds or any other thing of value for a charitable organization, and who advertises that the purchase or use of his goods, services, entertainment or any other thing of value will benefit a charitable organization.

“Commission on Higher Education” means the agency created by N.J.S.A. 18A:3B-13.

“Contract” means an agreement between two or more parties and includes, but is not limited to, initial contracts, extensions, renewals and amendments.

“Contribution” means the conveyance, promise or pledge of money, credit, property, financial assistance or other thing of any kind or value in response to a solicitation. “Contribution” does not include any of the following: bona fide fees, dues or assessments paid by members provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation; monies received pursuant to a governmental grant or contract; or personal services rendered by a volunteer.

“Custody, control or access” means that a person has responsibility for the collection, distribution, protection, or preservation of a charitable organization’s money; or that a person has the power or authority to manage, direct, restrict, administer or oversee a charitable organization’s money; or that a person has the power, authority, opportunity or right to make use of a charitable organization’s money. By way of example, but not by limitation, the following demonstrate custody or control of, or access to, a charitable organization’s money:

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1. A fund raising counsel or independent paid fund raiser has an agreement with an escrow, lock box or caging agent concerning a charitable organization's money;
2. A fund raising counsel or independent paid fund raiser has access to or the right to direct the use of a charitable organization's money in any financial or bank account; or
3. A fund raising counsel or independent paid fund raiser has the authority or the opportunity to direct the manner in which collected contributions are handled, disbursed, transferred or deposited.

"Division" means the Division of Consumer Affairs within the Department of Law and Public Safety.

"Escrow agent" means the person, firm or company responsible for operating any escrow or other account into which all monies are deposited and for distributing those monies.

"Event" means a planned happening, occurrence, activity or social occasion.

"Federated fund raising organization" means a federation of independent charitable organizations which have voluntarily joined together for purposes of raising and distributing money.

"Fund raising counsel" means any person, including any assignee, subcontractor or any other successor in interest, who is retained by a charitable organization for a fixed fee or rate to plan, manage, advise, consult or prepare material for or with respect to the solicitation in this State of contributions for a charitable organization, but who does not solicit contributions or employ, procure or engage any compensated person to solicit contributions. "Fund raising counsel" does not include a bona fide salaried officer, employee, or volunteer of a charitable organization or an attorney, accountant or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering professional services to that person.

"Government grant" means:

1. Any amounts received from a governmental unit, including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant;
2. Tax revenues levied for the organization's benefit and either paid to or expended on its behalf;
3. The value of services or facilities furnished by a governmental unit to the organization without charge.

"Gross contributions" means the total amount of contributions received nationwide by a charitable organization before any deductions for expenses of collection or for overhead or for compensation for any services such as the services provided by a fund raising counsel or an independent paid fund raiser.

"Gross receipts" means the total amount, without deductions, of cash or other assets received, including, but not limited to, all contributions.

"Gross revenue" means the total amount of revenue, without deductions, of cash or other assets received

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including, but not limited to, all contributions, government grants, program service revenue, membership dues, performance fees, interest and dividends, pledges, rents, and other support.

“Gross revenue” does not include items purchased by other entities for the use of the charitable organization where ownership of the item is retained by the original purchaser. For the purpose of determining if an audit is required, “gross revenue” does not include one-time bequests, fund raising campaigns for capital property in a single fiscal year or the value of services performed by volunteers.

“Honor box” means a container in which a person places a contribution and selects a piece of gum, candy or token gift such as a toy or magnet.

“Independent paid fund raiser” means any person, including any assignee, subcontractor or any successor in interest, who for compensation performs for a charitable organization any service in connection with which contributions are, or will be solicited in this State by that compensated person or by any compensated person he employs, procures, or engages, directly or indirectly to solicit contributions. “Independent paid fund raiser” does not include a bona fide salaried officer, employee, or volunteer of a charitable organization or an attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services to that person.

“Local unit” means a charitable organization that is affiliated with a parent organization under terms specified in the parent organization’s charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or by-laws.

“Membership” means a relationship which entitles a person to the privileges, professional standing, honors or other direct benefit of the organization and either the right to vote or elect officers, or hold office in the organization. “Membership” does not include any relationship granted solely upon making a contribution as a result of a solicitation.

“Parent organization” means a charitable organization which charters or affiliates local units under terms specified in the charitable organization’s charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws.

“Person” means an individual, corporation, association, partnership, trust, foundation or any other entity, however established within or without this State.

“Professional fund raisers” means both independent paid fund raisers and fund raising counsel.

“Registrant” means any person who has filed a registration statement with the Attorney General required by the Act.

“Registration statement” means an initial registration, renewal, financial report, or any other document or report required pursuant to N.J.S.A. 45:17A-23 through 28 to be filed with the Attorney General.

“Secretary of State” means the Secretary of State of the State of New Jersey.

“Solicitation” or “solicit” means the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value which will be used for a charitable purpose or benefit a charitable

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organization. A solicitation takes place whether or not the person making the solicitation receives any contribution, except that a charitable organization's use of its own name in any communication is not alone sufficient to constitute a solicitation. "Solicitation" includes, but is not limited to, the following methods of requesting or securing money, credit, property, financial assistance or other thing of value:

1. Any oral or written request;
2. The making of any announcement in the press, over the radio or television, by telephone, through the mail or any other media concerning an appeal or campaign by or for any charitable organization or purpose;
3. The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication which directly or by implication seeks to obtain a contribution;
4. The offer of, attempt to sell, or sale of any advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies or other tangible item in connection with which any appeal is made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale, or where any statement is made that the whole or any part of the proceeds from the sale will be used for any charitable purpose or benefit any charitable organization; and
5. The use of or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value in connection with which any appeal is made for any charitable organization or purpose.

"Solicitor" means any individual who attempts to solicit or solicits contributions, for compensation, and who is subject to the control of an independent paid fund raiser. The term "control" means the direct management, direction and supervision of performance of a solicitor's activities in connection with the solicitation of contributions by the independent paid fund raiser.

#### 13:48-1.4 Address for all matters related to registration

All matters related to registration should be communicated to:

Division of Consumer Affairs  
Office of the Attorney General  
Charities Registration Section  
PO Box 45021  
Newark, N.J. 07101

#### 13:48-2.1 Fee schedule

- (a) The fees charged by the Division of Consumer Affairs for registration of charitable organizations (which shall be read to include, for the purposes of this subchapter, federated fund raising organizations), fund raising counsel, independent paid fund raisers, and solicitors, and for filing of contracts and other documents, shall be the following:
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1. A charitable organization, which is required under the Act to file a short form registration statement and which received gross contributions of not more than \$10,000 during the most recently filed fiscal year of the organization, shall not be required to pay an annual registration fee. A late fee of \$25.00 shall be incurred by any organization that fails to submit the annual filing within 30 days of the annual filing deadline.
  2. A charitable organization, which is required under the Act to file a short form registration statement and which received gross contributions in excess of \$10,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$30.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.
  3. A charitable organization, which is required under the Act to file a long form registration statement and which received gross contributions of not more than \$100,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$60.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.
  4. A charitable organization, which is required under the Act to file a long form registration statement and which received gross contributions of more than \$100,000 but not more than \$500,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$150.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.
  5. A charitable organization, which is required under the Act to file a long form registration statement and which received gross contributions of more than \$500,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$250.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.
  6. A parent organization that registers local units in accordance with the Act shall pay its own fee and an additional fee of \$10.00 for each local unit.
  7. All fund raising counsel and independent paid fund raisers shall pay an annual registration fee of \$250.00, payable upon initial registration and on July 1 of each renewal year thereafter. A partnership or corporation which offers either fund raising counsel or independent paid fund raiser services, or both types of services, shall pay a single annual registration fee, payable upon initial registration and on July 1 of each renewal year thereafter. Upon renewal of registration, failure to pay the fee within 30 calendar days of July 1 shall result in a late fee of \$25.00.
  8. In addition to the fee paid by independent paid fund raisers, a solicitor shall pay a registration fee of \$15.00, payable upon initial registration and on July 1 of each renewal year thereafter. Upon renewal of registration, failure to pay the fee within 30 calendar days of July 1 shall result in a late fee of \$25.00.
  9. The fee for filing a contract, or for the renewal or the extension thereof, defined for purposes of this subsection as any written agreement between a charitable organization and a fund raising counsel, inde-
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pendent paid fund raiser or commercial co-venturer, shall be \$30.00 and shall be paid at least 10 days prior to commencement of any solicitation activity in the State set forth in that contract.

10. The fee for filing a final report, required to be filed by the charitable organization under Section 12b of the Act at the conclusion of a charitable sales promotion conducted by a commercial co-venturer on behalf of a charitable organization, shall be \$10.00.
11. The fee for filing a financial report required to be filed by a fund raising counsel or independent paid fund raiser under Section 10g(3) of the Act for a solicitation campaign, shall be \$10.00.
12. The fee for filing a written commitment, required to be filed by a fund raising counsel or independent paid fund raiser under Section 15e(1) of the Act, confirming a charitable organization's acceptance of donated tickets to an event, shall be \$10.00.
13. The fee for filing a 10 day notice, required to be filed by Section 13d(1) of the Act by a law officers' organization to provide notice of any campaign involving multiple solicitations, shall be \$10.00.
14. The fees for photocopies of any public record maintained pursuant to the Act shall be in accordance with N.J.S.A. 47:1A-2, specifically:

First page to tenth page	\$0.75 per page
Eleventh page to 20th page	\$0.50 per page
All pages over 20	\$0.25 per page

- (b) Where the fee imposed is based upon the gross contributions received during the most recently filed fiscal year, and a charitable organization failed to make a required filing which reports gross contributions, the fee shall be based upon the gross contributions received in the prior fiscal year.
- (c) A late fee shall be deemed a primary, but not exclusive, remedy for any registration statement or other document which is not filed in a timely fashion. Any failure to file in a timely fashion is a violation of the Act and may be enforced accordingly.
- (d) All fee payments shall be in the form of a check or money order made out to "The N.J. Division of Consumer Affairs," and sent to:

Division of Consumer Affairs  
Charities Registration Section  
PO Box 45021  
Newark, NJ 07101

#### 13:48-3.1 Registration

- (a) A charitable organization, fund raising counsel, independent paid fund raiser or solicitor shall not solicit or counsel solicitation of a resident of this State for a contribution before the Attorney General has been given the opportunity to review the registration statement filed with the Attorney General, unless the Attorney General has determined that the person or organization is exempt from registration after having reviewed the request for an exemption determination filed pursuant to N.J.A.C. 13:48-3.3(b).

- (b) A charitable organization shall meet the filing requirements of N.J.A.C. 13:48-4 or 5.
- (c) A fund raising counsel shall meet the filing requirements of N.J.A.C. 13:48-7.
- (d) An independent paid fund raiser shall meet the filing requirements of N.J.A.C. 13:48-7.
- (e) A solicitor shall meet the filing requirements of N.J.A.C. 13:48-8.
- (f) A charitable organization shall maintain its registration by filing a renewal statement annually within six months after the close of the charitable organization's fiscal year.

13:48-3.2 When registration deemed accepted; failure to satisfy registration requirements; notice and hearing

- (a) If the Attorney General determines that the registration requirements established by the Act or these rules are not satisfied, the Attorney General shall notify the filing party or registrant in writing within 10 business days of receipt of the registration. If notification is not sent by the Attorney General within 10 business days to a filing party or registrant, the registration shall be deemed accepted.
- (b) Upon receipt of notification that the requirements have not been satisfied, the charitable organization, fund raising counsel, independent paid fund raiser, or solicitor, has 10 business days in which to satisfy the requirements or request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.
- (c) If the Attorney General determines that the registration requirements of this Act or these rules have not been satisfied and the person or organization does not request a hearing as set forth in (b) above, the registration application shall be denied. This does not prohibit the person or organization from registering at a future date.
- (d) Acceptance of a registration statement shall not foreclose the Attorney General from later taking appropriate action based on information that may be subsequently discovered.

13:48-3.3 Organizations exempt from registration

- (a) The registration requirements of these rules shall not apply to:
    - 1. Any religious corporation, trust, foundation, association or organization incorporated under the provisions of Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes or established for religious purposes;
    - 2. Any agency or organization incorporated or established for charitable purposes and engaged in effectuating one or more charitable purposes, which is affiliated with, operated by or supervised or controlled by a corporation, trust, foundation, association, or organization incorporated or established for religious purposes, or any other religious agency or organization;
    - 3. Any educational institution, the curricula of which in whole or in part are registered or approved by the State Department of Education or the Commission on Higher Education, either directly or by acceptance of accreditation by an accrediting body recognized by these agencies;
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4. An educational institution confining its solicitation to its student body, alumni, faculty and trustees, and their families;
  5. A library registered with the Secretary of State, provided that the annual financial report of that library shall be filed with the Secretary of State, where it shall be open for public inspection; or
  6. A local unit registered by a parent organization in accordance with N.J.A.C. 13:48-6.
- (b) Nothing in this section shall preclude the Attorney General from requiring an entity or organization claiming an exemption from registration to demonstrate that it meets the requirements of (a) above or from taking other appropriate action based on information which may be subsequently discovered.

#### 13:48-3.4 Extensions of time for annual filing of the renewal statement and financial report

- (a) The annual filing of the renewal statement and financial report shall be due no later than six months after the close of an organization's fiscal year unless the organization has been granted an extension of time as set forth below.
- (b) For good cause shown, the Attorney General in his or her discretion may extend the time for the annual filing of the renewal statement and financial report, for a period not to exceed 180 days, during which time the previous registration shall remain in effect.
- (c) For purposes of this section the petitioner shall set out in full the facts which constitute "good cause" and shall append thereto any documents supporting the request for an extension.
- (d) The written request for an extension shall be accompanied by the full payment of the fee due for the annual filing, and shall be sent to the Attorney General at the address set forth in N.J.A.C. 13:48-1.4. The request must be received by the Attorney General before the filing deadline.
- (e) The request shall be signed by an officer of the charitable organization who shall certify that the organization has filed the previous year's report; that the charitable organization has paid all fees and penalties due and owing to the Division of Consumer Affairs, if any, and that the request for an extension contains complete and accurate information.
- (f) Subsections (b) and (c) notwithstanding, the Attorney General shall deny an application for an extension if:
1. The charitable organization has not filed the previous year's report;
  2. The charitable organization has not paid all fees and any penalties owing to the Division of Consumer Affairs; or
  3. The extension request does not contain full and accurate information.
- (g) An application for an extension of time shall be deemed approved unless an applicant is notified by certified mail, return receipt requested, within 15 business days that the extension has been denied.
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## 13:48-3.5 Forms

Forms for filing information required by the Act are available upon request from the Division of Consumer Affairs.

## 13:48-3.6 Notification of change of address; service of process

- (a) A registrant shall notify the Attorney General in writing of any change of address from the address currently filed with the Attorney General. Such notice shall be mailed to the Attorney General by certified mail, return receipt requested, not later than 10 days following the change of address.
- (b) Failure to notify the Attorney General of any change of address pursuant to (a) above shall be a violation of the Act and these rules.
- (c) Service of an administrative complaint or other process at the registrant's address currently on file with the Attorney General shall be deemed adequate notice for the commencement of any enforcement action.

## 13:48-4.1 Short form registration

- (a) Prior to commencing solicitation activities in this State, the following charitable organizations, except those exempt from registration pursuant to N.J.A.C. 13:48-3.3, or those required to file a long form registration pursuant to N.J.A.C. 13:48-5, shall file a short form registration statement with the Attorney General:
    - 1. Charitable organizations or organizations engaging in a charitable fund raising campaign which do not receive gross contributions in excess of \$25,000 during a fiscal year, if all of their fund raising activities are performed by volunteers, members, officers or persons who are not compensated for soliciting contributions. However, if gross contributions should exceed \$25,000, whether or not the money is actually received by the charitable organization within the fiscal year, the organization shall, within 30 days of reaching that figure, notify the Division in writing that the organization will file a long form at the end of the next fiscal year, as required by N.J.A.C. 13:48-5;
    - 2. Fraternal, patriotic, social or alumni organizations, historical societies, and similar organizations organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, when solicitation of contributions is confined to their membership and solicitation is performed by members of that organization;
    - 3. Persons requesting any contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary; and
    - 4. Any local post, camp, chapter or similarly designated element, or a county unit of that element, of a bona fide veterans' organization which issues charters to the local elements throughout this State, or to any veterans' organization chartered under Federal law or to any service foundation of such an organization recognized in its by-laws.
  - (b) Information required for the short form registration statement shall include the following:
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1. The name and address of the organization;
  2. A statement whether the organization has engaged an independent paid fund raiser, fund raising counsel or commercial co-venturer;
  3. The purpose for which the charitable organization is organized;
  4. The purposes for which the funds are raised;
  5. The tax status of the charitable organization;
  6. The reason the organization is eligible to file a short form registration;
  7. A copy of the organization's most recent Internal Revenue Service Form 990, Form 990EZ and Schedule (A) 990 if the organization filed these forms;
  8. A completed financial report;
  9. A statement whether the organization has ever been denied registration or had its registration revoked in this or any other jurisdiction along with a list of those jurisdictions; and
  10. Any other information as may be requested of the applicant.
- (c) Any material change in any information filed with the Attorney General shall be reported in writing to the Attorney General within 10 business days of the change.
- (d) In addition to the information required in (b) above, a parent organization filing registrations for local units shall include in its initial filing the information required by N.J.A.C. 13:48-6.
- (e) A registrant who is eligible to file a short form shall renew its registration at the end of each fiscal year pursuant to N.J.A.C. 13:48-4.2.
- (f) A short form registration shall be signed by two authorized officers, including the chief fiscal officer of the organization, who shall certify that all information contained in the registration statement is correct. If an organization does not have two officers of the corporation or organization, the sole authorized officer shall file a certification attesting to the fact that the organization is solely controlled and operated by only one officer.

#### 13:48-4.2 Short form renewal

- (a) An organization which has filed an initial short form registration shall file a short form for renewal of its registration within six months after the close of its fiscal year provided the organization continues to meet the requirements of N.J.A.C. 13:48-4.1(a).
- (b) If an extension for filing the short form renewal was requested, a copy of the request shall accompany the short form renewal.
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## 13:48-4.3 Financial reports

- (a) A charitable organization filing a short form registration or a short form renewal shall file an accompanying annual financial report on a form prescribed by the Attorney General. The financial report form shall include the following:
1. The name, address and telephone number of the organization and the New Jersey charitable registration number;
  2. Gross contributions, through direct and indirect public support;
  3. Government grants, if any;
  4. Other support;
  5. Total expenses including:
    - i. Program expenses;
    - ii. Management and general expenses;
    - iii. Fund-raising expenses, if any; and
    - iv. Any other costs;
  6. Revenues over/under expenses for the year;
  7. Whether the organization has engaged the services of an independent paid fund raiser, fundraising counsel or commercial co-venturer;
  8. A copy of the organization's most recently filed Internal Revenue Service Form 990 and Schedule (A)990, if required to be filed by the Internal Revenue Service, must be submitted with the financial report; and
  9. Any other information as may be requested of the applicant.

## 13:48-5.1 Long form registration

- (a) Prior to commencing solicitation activities in this State a charitable organization, except those exempt from registration pursuant to N.J.A.C. 13:48-3.3 or those qualified to file a short form pursuant to N.J.A.C. 13:48-4, shall file a long form registration statement with the Attorney General.
- (b) Information required for the initial and renewal long form registration statement shall include the following:
1. The name of the organization and any other name or names under which it intends to solicit contributions in this State;
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2. The purposes for which the charitable organization has been organized;
  3. The name, address and telephone number of each officer, director and trustee and each principal salaried executive staff employee;
  4. A statement whether any officer, director, trustee or principal salaried executive staff employee has been adjudged liable in an administrative or civil action involving theft, fraud, or deceptive business practices, or convicted in a criminal action, involving theft, fraud, or deceptive business practices. For purposes of this paragraph:
    - i. A plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction; and
    - ii. "Each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization;
  5. A copy of the most recently filed Internal Revenue Service Form 990 and Schedule (A)990 for every registrant;
  6. A clear description of the specific programs and charitable purpose for which contributions will be used and a statement whether such programs are planned or are in existence;
  7. A statement whether any of the organization's officers, directors, trustees, or principal salaried executive staff employees above are related by blood, marriage or adoption to each other or to any officers, agents, or employees of any fund raising counsel or independent paid fund raiser under contract to the organization, or are related by blood, marriage or adoption to any chief executive employee, any other employee of the organization with a direct financial interest in the transaction, or any partner, proprietor, director, officer, trustee, or to any shareholder of the organization with more than a two per cent interest of any supplier or vendor providing goods or services to the organization and the name and business and home address and telephone number of each related party;
  8. The amount of any grant or financial assistance from any agency of government in its preceding fiscal year; and
  9. Any other information as may be requested of the applicant.
- (c) A charitable organization may incorporate by reference any information reported by the organization on Internal Revenue Service Form 990 and Schedule (A)990.
- (d) Upon initial registration only, every charitable organization required to file a long form registration shall include the following additional information which shall not be required upon renewal:
1. A copy of the organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and by-laws;
  2. A statement setting forth the place where and the date when the organization and its tax exempt status were legally established, the form of its organization, along with copies of Federal or State tax exemption deter-
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mination or exemption ruling letters;

3. The address and telephone number of the organization and the address and telephone number of each office in this State. If the organization does not maintain an office in this State, the name, address and telephone number of the individual having custody of its financial records shall be disclosed;
  4. The name, address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;
  5. The date when the organization's fiscal year ends;
  6. A statement whether:
    - i. The organization is authorized by any other state to solicit contributions, and if so, a listing of the states in which authorization has been obtained;
    - ii. The organization or any of its present officers, directors, executive personnel or trustees are or have ever been enjoined in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;
    - iii. The organization's registration has been denied, suspended or revoked by any jurisdiction, together with a listing of those jurisdictions and the reasons for that denial, suspension, or revocation; and
    - iv. The organization has voluntarily entered into an assurance or voluntary discontinuance or agreement with any jurisdiction or Federal agency or officer and a listing of those jurisdictions;
  7. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice, or written assurance) supporting an affirmative response to (d)6ii, iii and iv above; and
  8. A statement whether the organization intends to solicit contributions from the general public.
- (e) All long form registrations shall be signed by two authorized officers, including the chief fiscal officer of the organization, who shall certify that all information contained in the registration statement is correct. If an organization does not have two officers of the corporation or organization, the sole authorized officer shall file a certification attesting to the fact that the organization is solely controlled and operated by only one officer.
- (f) In addition to the information required in (b) through (e) above, a parent organization filing registrations for local units shall include in its initial registration and renewal statement the information required by N.J.A.C. 13:48-6.

#### 13:48-5.2 Long form renewal

- (a) An organization which has filed an initial long form registration shall file a renewal of its registration within six months after the close of its fiscal year.
  - (b) If an extension was requested, a copy of the request shall accompany the long form renewal.
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## 13:48-5.3 Financial reports; audits

- (a) A charitable organization filing a long form registration shall file an annual financial report with the Attorney General.
  - (b) Information required for the financial report shall include the following:
    - 1. A statement of financial position;
    - 2. A statement of activities, revenue, gains and other support, expenses and losses and changes in net assets;
    - 3. A statement of functional expenses classified into:
      - i. Program expenses;
      - ii. Management and general expenses; and
      - iii. Fund raising;
    - 4. A statement of cash flows.
  - (c) The annual financial report of every charitable organization which received more than \$100,000 in gross revenue during its most recently completed fiscal year shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles by an independent certified public accountant for the purpose of issuing an auditor's report thereon.
  - (d) The annual financial reports of all charitable organizations which receive more than \$25,000 but less than \$100,000, shall be certified by the organization's president or other authorized officer of the organization's governing board. If the Attorney General requests an audit, the organization shall be notified in writing. In response, the organization shall, within 120 days of the Attorney General's notification, submit an audited financial statement prepared in accordance with generally accepted accounting principles by an independent certified public accountant.
  - (e) For the purpose of determining if an audit is required pursuant to (d) above, a charitable organization's gross revenue shall not include one-time bequests, fund raising campaigns for capital property in a single fiscal year, the value of services performed by volunteers, or items purchased by other entities for the use of the charitable organization where ownership of the item is retained by the original purchaser.
  - (f) An independent member agency of a federated fund raising organization shall independently comply with the provisions of this section.
  - (g) The Attorney General will accept a copy of a current audit performed for a State agency such as the New Jersey Department of Community Affairs or the New Jersey Department of Education, an A-133 audit performed for the United States government, or an audit performed for another state agency or officer in compliance with the laws of that state, provided that the audit is substantially similar in content and scope to the audit required by this section.
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### 13:48-6.1 Registration of local units by parent organizations

- (a) A parent organization may, but is not required to, register any or all of its local units. If a parent organization elects to register one or more of its local units, it shall follow the procedures set out in this subchapter.
- (b) A local unit shall register if it has not been registered by its parent organization pursuant to this subchapter or if it does not meet the requirements of (c) below. Each local unit shall be responsible to determine if it has been registered by the parent organization.
- (c) A local unit of a parent organization which meets all of the following requirements shall be considered registered:
  - 1. The parent organization is registered pursuant to the Act;
  - 2. All solicitations on behalf of the local unit are performed by members of the local unit or volunteers;
  - 3. The local unit does not employ a fund raising counsel or independent paid fund raiser or utilize paid staff in the preparation of materials or records concerning or related to the solicitations; and
  - 4. The local unit:
    - i. Does not receive gross contributions in excess of \$25,000 during the fiscal year; or
    - ii. Is an organization that limits membership to persons who are, or formerly were, employed as officers statutorily authorized to enforce the criminal laws of this State.
- (d) The parent organization also shall provide all of the following information:
  - 1. Upon initial registration, a copy of the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and by-laws.
  - 2. Upon initial registration and annual renewal, a separate statement that provides the following:
    - i. The name, address, and phone number of all local units within this State that it is registering;
    - ii. The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year; and
    - iii. A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements set forth in this subchapter.

### 13:48-7.1 General requirements

- (a) A fund raising counsel, independent paid fund raiser or any assignee, subcontractor or other successor in
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interest shall, before commencing performance of any service or any solicitations within this State:

1. Register annually with the Attorney General; and
  2. File contracts or service agreements pursuant to N.J.A.C. 13:48-9.1.
- (b) The registration statement shall be on a form prescribed by the Attorney General, which shall contain the following information:
1. The business name, address, Federal tax identification number, and telephone number of the fund raising counsel or independent paid fund raiser;
  2. The name, address, and home telephone number of the principal executive officer and the principal financial officer, if any, of the fund raising counsel or independent paid fund raiser;
  3. A statement whether the fund raising counsel or independent paid fund raiser has or intends to have custody, control, or access to any charitable organization's money;
  4. A statement whether:
    - i. The fund raising counsel or independent paid fund raiser is authorized or permitted by any other state to solicit contributions, and if so, a listing of the states in which authorization has been obtained.
    - ii. The fund raising counsel or independent paid fund raiser or any of its present officers, directors, executive personnel or trustees have been convicted of any criminal offense committed in any jurisdiction in connection with the performance of activities regulated under the Act or these regulations, or any criminal offense involving untruthfulness or dishonesty, or any criminal offense relating adversely to the registrant's fitness to perform activities regulated by the Act or these regulations and a listing of the jurisdictions. For the purpose of this subparagraph, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction.
    - iii. The fund raising counsel or independent paid fund raiser has been enjoined in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets and a listing of those jurisdictions.
    - iv. The fund raising counsel's or independent paid fund raiser's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension, or revocation and a listing of those jurisdictions.
    - v. The fund raising counsel or independent paid fund raiser has voluntarily entered into an assurance or voluntary discontinuance or agreement with any jurisdiction or Federal agency or officer and a listing of those jurisdictions;
  5. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice or written assurance) supporting an affirmative response to (b)4ii, iii, iv and v above;
  6. A list of all the charitable organizations which have engaged or retained the services of the fund raising
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counsel or independent paid fund raiser within the last five years to plan or conduct solicitation activities in the State of New Jersey; and

7. Any other information as may be requested of the applicant.
- (c) The accuracy and completeness of all information contained in the registration statement shall be signed and sworn to by the principal executive officer.
  - (d) The registration statement shall be accompanied by the fee specified in N.J.A.C. 13:48-2.1. A fund raising counsel or independent paid fund raiser which is a partnership or corporation shall pay a single fee.
  - (e) Any material change in any information, including registration information required by N.J.A.C. 13:48-9.1, filed with the Attorney General shall be reported in writing to the Attorney General within 10 business days after the change.
  - (f) The registration of each fund raising counsel or independent paid fund raiser shall expire annually on June 30.

#### 13:48-7.2 Bond requirements for fund raising counsel and independent paid fund raisers

- (a) A fund raising counsel or independent paid fund raiser who has or intends to have custody, control, or access to a charitable organization's money shall, at the time of making application for registration, file with the Attorney General a bond in which it shall be the principal obligor for the sum of \$20,000 for the initial registration. If a fund raising counsel or independent paid fund raiser holds a nonconforming bond on November 15, 1999, that bond shall be replaced with a conforming one prior to the expiration of that bond or May 13, 2000, whichever comes first.
  - (b) The bond shall provide for one or more sureties whose liability in the aggregate shall equal at least \$20,000.
  - (c) The fund raising counsel or independent paid fund raiser shall maintain the bond in effect during the entire period of registration.
  - (d) The bond shall be payable to the Attorney General for the benefit of any person who may have a cause of action against the principal obligor of the bond for any violation of the Act.
  - (e) If at any time, the Attorney General receives information from any state or Federal agency or notice from a court of competent jurisdiction that a surety on any bond is not acceptable, the Attorney General shall provide notice to the fund-raising counsel or the independent paid fund raiser by certified mail, return receipt requested, whereupon a new bond shall be provided, or a request for a hearing made, to the Attorney General within 10 days following the registrant's receipt of the notice.
    1. If the registrant fails to provide a new bond after the registrant has been given notice and an opportunity for a hearing, the Attorney General may revoke or suspend the fund raising counsel's or independent paid fund raiser's registration.
    2. The Attorney General may rely upon a determination by any state or Federal agency or notice from a court of competent jurisdiction in assessing the adequacy of a surety.
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- (f) If the surety wishes to cancel the bond, the surety shall give 60 days advance written notice by certified mail to the Attorney General before the surety may cancel. The 60 days shall begin to run on the day following the Attorney General's receipt of the notice. A provision regarding this notice of withdrawal shall appear in the bond.
- (g) If a surety gives notice pursuant to (f) above, a fund raising counsel or independent paid fund raiser shall replace the bond before the expiration of the existing bond or cease fundraising activities.

13:48-7.3 Requirements for effective registration of fund raising counsel and independent paid fund raisers; failure to comply

- (a) A fund raising counsel or independent paid fund raiser shall not be deemed registered pursuant to the Act unless the fund raising counsel or the independent paid fund raiser has met all of the requirements of the Act, has obtained the requisite bond and has made all of the filings with the Attorney General as required by this subchapter.
- (b) It shall be a violation of the Act for any fund raising counsel or independent paid fund raiser to take custody or control of, or to have access to, a charitable organization's money prior to filing a bond with the Attorney General and accomplishing registration in accordance with the Act and these regulations.

13:48-8.1 General requirements

- (a) Each solicitor for an independent paid fund raiser shall register or be registered by an independent fund raiser annually with the Attorney General.
- (b) The registration shall be signed by the solicitor on a form prescribed by the Attorney General, which shall contain the following information:
  - 1. The name and address of the solicitor;
  - 2. The name, address, registration number, and telephone number of the independent paid fund raisers who employ the solicitor; and
  - 3. Any other information as may be requested of the applicant.
- (c) The registration shall be accompanied by the fee specified in N.J.A.C. 13:48-2.1(a)8.
- (d) Any material change in any information filed with the Attorney General including, but not limited to, a change in the independent paid fund raiser by whom the solicitor is retained shall be reported in writing by the solicitor or the independent paid fund raiser to the Attorney General within 10 business days of the change.
- (e) The registration of each solicitor shall expire annually on June 30.

13:48-9.1 Contract, service agreement, and report requirements for fund raising counsel and independent paid fund raiser

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- (a) A fund raising counsel or independent paid fund raiser shall file a copy of any contract with a charitable organization with the Attorney General at least 10 days prior to the performance of any service within this State. An additional copy shall be filed by the charitable organization, which obligation cannot be delegated to the fund raising counsel or independent paid fund raiser.
- (b) The contract shall contain a description of the relationship between the charitable organization and the fund raising counsel or independent paid fund raiser and shall include the following information:
1. A statement of the respective obligations of the professional fund raiser and the charitable organization;
  2. A clear statement of the fees or rate which will be paid to the fund raising counsel or independent fund raiser;
  3. The projected commencement and termination dates of the solicitation campaign;
  4. A statement as to whether the fund raising counsel or independent paid fund raiser will have custody, control or access to contributions;
  5. A statement as to the guaranteed minimum percentage of the gross receipts from contributions which will be remitted to the charitable organization, if any, or if the solicitation involves the sale of goods, services or tickets to a fund raising event, the percentage of the purchase price which will be remitted to the charitable organization, if any. Any stated percentage shall exclude any amount which the charitable organization is to pay as fund raising costs;
  6. A statement as to the percentage of the gross revenue from which the fund-raising counsel or independent paid fund raiser will be compensated. If the compensation of the fund raising counsel or independent paid fund raiser is a flat fee, which is not contingent upon the number of contributions or the amount of revenue received, the compensation shall be expressed as a reasonable estimate of the percentage of anticipated gross revenue, and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the fund raising counsel or independent paid fund raiser regarding the solicitation to be conducted by the independent paid fund raiser;
  7. The bank branch, address, and each account number where all monies will be deposited;
  8. The mailing address or addresses which will receive any contributions;
  9. The name and address of any caging or escrow agent retained in connection with the performance of the contract; and
  10. The names of the individuals who will be authorized signatories for the accounts where all monies are deposited.
- (c) The contract shall be signed by two authorized officials of the charitable organization, one of whom must be a member of the organization's governing body, and the authorized contracting officer of the fund raising counsel or independent paid fund raiser.
- (d) Each contract filed by the fund raising counsel or independent paid fund raiser shall be accompanied by the fee

specified in N.J.A.C. 13:48-2.1(a)9.

(e) A fund raising counsel or independent paid fund raiser shall file a report on forms prescribed by the Attorney General as follows:

1. The report shall be filed within 40 days after the expiration of the contract;
2. For campaign contracts lasting more than 12 months, the report must be filed within 40 days of the end of each of the charitable organization's fiscal years;
3. Upon the completion of a campaign contract lasting more than 12 months, a final report shall be filed within 40 days after the expiration of the contract or service agreement;
4. Any financial campaign report filed pursuant to this subchapter shall contain the following information:
  - i. Gross revenues;
  - ii. An itemization of all expenses incurred;
  - iii. The mailing address or addresses which received the contributions;
  - iv. The name and address of any company or any individuals who picked up any contributions;
  - v. The bank branch, address and account numbers where all monies were deposited;
  - vi. The names of the individuals who are or were signatories on the accounts where all monies were deposited; and
  - vii. Any other information as may be requested of the fund raising counsel or independent paid fund raiser.
5. This report shall be signed by an authorized official from the fund raising counsel or independent paid fund raiser;
6. In addition, the report shall be reviewed and signed by an authorized official from the charitable organization; and
7. The financial campaign report shall be accompanied by the fee specified in N.J.A.C. 13:48-2(a)11.

#### 13:48-9.2 Contracts with commercial co-venturers; sales promotion report

- (a) A charitable organization which permits a charitable sales promotion to be conducted on its behalf shall obtain a written contract from the commercial co-venturer and shall file a copy of the agreement with the Attorney General at least 10 business days prior to the initiation of that charitable sales promotion, solicitation, or venture agreement.
- (b) The charitable sales promotion contract shall include, but is not limited to, the following information:
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1. A description of the charitable sales promotion, solicitation, or venture undertaken, and dates to be commenced and terminated;
  2. The name and address of the charitable organization and of the commercial co-venturer;
  3. The dollar amount or percent per unit of goods or services purchased or used that will benefit the charitable organization or purpose. If the actual dollar amount or percent cannot reasonably be determined prior to the final date of the charitable sales promotion, the commercial co-venturer shall disclose an estimated dollar amount or percent. Any such estimate shall be reasonable and shall be based upon all of the relevant facts known to the commercial co-venturer and the charitable organization regarding the charitable sales promotion; and
  4. A requirement that the commercial co-venturer provides the charitable organization with the gross amount of income received by the commercial co-venturer attributable to the charitable sales promotion, solicitation or venture undertaken.
- (c) The contract filing shall include the fee set forth in N.J.A.C. 13:48-2.1(a)9.
- (d) A charitable organization shall file a charitable sales promotions report, on forms provided by the Attorney General, with the Division within 40 days after the expiration of the contract or service agreement. For campaign contracts lasting more than 12 months, a charitable organization shall file an interim report within 40 days of the end of each of the charitable organization's fiscal years. The charitable organization may file the final report within 40 days after the expiration of the contract or service agreement or at the end of the last fiscal year of the contract.
- (e) A charitable sales promotion campaign report shall contain the following information:
1. A description of the charitable sales promotion, solicitation, or venture undertaken and the dates it commenced and terminated;
  2. As reported to the charitable organization by the commercial co-venturer, the gross amount of income received by the commercial co-venturer attributable to the charitable sales promotion, solicitation or venture;
  3. The amount of money or other contribution remitted to the charitable organization covering each event or portion of an extended charitable sales promotion, solicitation or venture. If the contribution is other than money, a list of the donated goods or a description of the services donated as well as their dollar value must be attached to the report; and
  4. Any other information as may be requested of the charitable organization.
- (f) This filing shall include the fee set forth in N.J.A.C. 13:48-2.1(a)10.

#### 13:48-9.3 Failure to satisfy contract requirements; notice and hearing

- (a) If the Attorney General determines that the contract requirements established by the Act or these rules are not satisfied, the Attorney General shall notify the filing party or registrant within 10 business days of receipt of
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the contract. If notification is not sent by the Attorney General within 10 business days to the filing party or registrant, then performance may begin on the contract.

- (b) Within 10 business days after receipt of notification that the requirements have not been satisfied, the charitable organization, fund raising counsel, independent paid fund raiser, commercial co-venturer or solicitor may satisfy the requirements or request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (c) If the Attorney General determines that the contract requirements of the Act or these rules have not been satisfied and the person or organization does not request a hearing as set forth in (b) above, the contract shall be disapproved. This does not prohibit the organization from filing at a future date.
- (d) Acceptance of a registration statement or any other required filing shall not foreclose the Attorney General from later taking the appropriate action based on information that may be subsequently discovered.

#### 13:48-10.1 General requirements

- (a) Every charitable organization, unless exempt from registration pursuant to N.J.A.C. 13:48-3.3, and every fund raising counsel, independent paid fund raiser and commercial co-venturer subject to the provisions of the Act shall keep complete and accurate records of its activities in this State as required by the Act.
  - 1. The records shall be in such form as will enable them to accurately provide the information required by the Act or these regulations.
  - 2. The records shall be made available for inspection and copying upon demand by the Attorney General.
- (b) The records of every charitable organization, unless exempt from registration pursuant to N.J.A.C. 13:48-3.3, every fund raising counsel, every independent paid fund raiser and every commercial co-venturer shall be maintained for a period of at least three years after the end of the period of time to which they relate.
- (c) All tickets for events sold by a charitable organization, fund raising counsel, independent paid fund raiser, or commercial co-venturer shall be numbered, shall identify the specific time of the event and the identity and location of the facility where the event will take place.

#### 13:48-10.2 Records of fund raising counsel and independent paid fund raiser

- (a) Every fund raising counsel and independent paid fund raiser which has or intends to have custody, control, or access to a charitable organization's monies shall also maintain during each solicitation campaign, and for not less than three years after the completion of such campaign, the following records, which shall be available for inspection upon demand by the Attorney General:
    - 1. The name, home address and telephone number of each employee, solicitor or other person involved in the solicitation;
    - 2. Records of all revenue received and expenses incurred in the course of the solicitation campaign;
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3. Records of all contributions, including the name and address of each contributor and the date and amount of the contribution, except that recordkeeping with regard to donations of goods and personal property shall be limited to the dollar value received by or accruing to the charitable organization;
  4. The name, location and account number of each bank or other financial institution in which the fund raising counsel or independent paid fund raiser has deposited revenue from the solicitation campaign; and
  5. Records of the name, address and telephone number of each contributor donating tickets and the number of tickets donated, and of the name, address and telephone number of each organization receiving donated tickets for use by others, including the number of tickets for use by others, if a fund raising counsel or an independent paid fund raiser sells tickets to an event and represents that tickets will be donated for use by another.
- (b) A fund raising counsel or an independent paid fund raiser who performs services for a charitable organization exempt from registration requirements pursuant to N.J.A.C. 13:48-3.3 shall nonetheless be subject to the requirements of this section.

13:48-11.1 Fund raising counsel and independent paid fund raiser; deposit of funds

- (a) A fund raising counsel or an independent paid fund raiser shall deposit or require the deposit of each contribution received pursuant to a solicitation, in its entirety and within five business days of its receipt, in an account at a bank or other Federally insured financial institution.
- (b) The account shall be in the name of the charitable organization, and the charitable organization shall have the sole control of the account and all withdrawals.

13:48-11.2 Disclosures to the public; solicitations; receipts and confirmations; notice

- (a) Prior to soliciting any contribution (except for an in-person solicitation) either telephonically, electronically or in writing, a fund raising counsel or independent paid fund raiser, commercial co-venturer, solicitor, or charitable organization, unless exempt from registration pursuant to N.J.A.C. 13:48-3.3, shall clearly and conspicuously disclose the following:
  1. The name of the individual making the solicitation;
  2. Whether or not the individual making the solicitation is paid or is a volunteer;
  3. The name of any fund raising counsel, independent paid fund raiser, or commercial co-venturer employing the individual making the solicitation; and
  4. The name of the charitable organization which will receive the contribution.
- (b) Any oral or written statement made by a charitable organization or on behalf of a charitable organization by persons including, but not limited to, commercial co-venturers, fund raising counsels, independent paid fund raisers, or solicitors shall be truthful.

(c) If a contribution or pledge results from an oral or written solicitation, including a telephone solicitation but excluding any in-person solicitation, a written confirmation or receipt or written reminder shall, upon request of the contributor, be sent to the contributor. Every confirmation, receipt or reminder shall include the clear and conspicuous disclosure of the following:

1. The name of the individual making the solicitation;
2. Whether or not the individual making the solicitation is paid or a volunteer;
3. The name of any fund raising counsel, independent paid fund raiser, or commercial co-venturer employing the individual making the solicitation; and
4. The name of the charitable organization which will receive the contribution.

(d) Every printed solicitation, written confirmation, receipt or written reminder shall include the following statement which shall be conspicuously printed:

INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING (973) 504-6215. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.

#### 13:48-11.3 Disclosures to the public; canisters; honor boxes; public vending machines

(a) All canisters, honor boxes and public vending machines used to raise funds for charitable organizations required to be registered under the Act shall clearly and conspicuously disclose the following:

1. The name and address of the charitable organization, as registered with the Attorney General, or the organization's name and registration number; and
2. The charitable purpose of the organization.

(b) In addition to the requirements in (a) above, all canisters, honor boxes and public vending machines shall include the following statement which shall be conspicuously printed and displayed:

INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING (973) 504-6215. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.

#### 13:48-12.1 Charitable organization's responsibility for fund-raising activities

(a) A charitable organization shall establish and exercise control over fund raising activities conducted for its benefit and assure that the fund raising activities are conducted without coercion. The fund raising activities over which the charitable organization shall establish and exercise control include, but are not limited to:

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1. Review and approval of all written contracts and agreements;
  2. Submission to the Attorney General of all information required to be filed with the Attorney General;
  3. The collection and disbursement of all contributions made to the charitable organization;
  4. The activities of its officers, employees and volunteers in the performance of any fund raising duties done for the benefit of the charitable organization or any administrative and reporting activities for the charitable organization as required by the Act or these rules;
  5. The script or other statements used in telephone solicitations;
  6. Review of all printed solicitation or pledge documents for accuracy;
  7. Establishment of a procedure to ensure that all requests for written information or educational literature are honored;
  8. Knowledge and approval of the process by which contributions are collected; and
  9. Knowledge and approval of the pledge reminder process.
- (b) Failure of an independent paid fund raiser to supervise and exercise control over solicitors and other employees to ensure compliance with the Act shall constitute a violation of the Act and these rules.
- (c) Failure of a fund raising counsel to supervise and exercise control over employees to ensure compliance with the Act shall constitute a violation of the Act and these rules.

#### 13:48-12.2 Duty to cooperate in investigative inquiries

A charitable organization, fund raising counsel, or independent paid fund raiser shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, the Attorney General into a charitable organization's, fund raising counsel's, independent paid fund raiser's compliance with all provisions of the Act and these rules. A charitable organization's, fund raising counsel's, or independent paid fund raiser's failure to cooperate, absent good cause shown, may be deemed by the Attorney General to constitute misconduct and a violation of the Act and these rules and thus subject the charitable organization, fund raising counsel or independent paid fund raiser to appropriate administrative or civil action.

#### 13:48-13.1 Unregistered practice

- (a) It shall be a violation of the Act for any charitable organization or person required to file a registration statement in accordance with the Act and the rules set forth in this chapter to fail to do so.
- (b) It shall be a violation of the Act for any charitable organization or person that has filed an initial registration statement to engage in solicitation or fund raising activities before the Attorney General has been given the opportunity to review the registration statement pursuant to N.J.S.A. 45:17A-22 and the rules set forth in this chapter.
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- (c) Solicitation activities on behalf of an unregistered charitable organization, whether conducted by the charitable organization or by any other person, shall be a violation of the Act and considered misconduct by both the charitable organization and the other person.

13:48-13.2 Unlawful acts and practices; misconduct

- (a) The following acts and practices are declared unlawful as applied to the planning, conduct, or execution of any solicitation or charitable sales promotion and shall be considered misconduct:
1. To misrepresent by words or conduct any material fact to any person including, but not limited to, the purpose or nature of the charitable institution or the purpose or beneficiary of a solicitation; to solicit contributions for a purpose other than the charitable purpose expressed in the statement of the charitable organization or expend contributions in a manner inconsistent with that purpose, or to fail to disclose any material fact;
  2. To violate or fail to comply with any of the applicable provisions of the Act or the rules adopted under authority of the Act;
  3. To violate or fail to comply with any of the applicable provisions of the Consumer Fraud Law (N.J.S.A. 56:8-1 et seq.) or the rules adopted pursuant to that Law;
  4. To utilize a name, symbol or statement so closely related or similar to that used by another charitable organization and registered by that organization with the United States Patent and Trademark Office or registered pursuant to N.J.S.A. 56:2-1 et seq., that its use would tend to confuse or mislead a solicited person or to solicit contributions in a manner or through representations that falsely imply or are likely to create the mistaken belief that the contributions are solicited by or on behalf of another charitable organization;
  5. To lead any person to believe that registration constitutes or implies an endorsement or approval by the State;
  6. To distribute honorary membership or courtesy cards or cards of a similar nature identifying the organization in connection with or in any manner related to the solicitation of funds or contributions for or on behalf of the organization in the case of any charitable organization that limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or that is a parent organization that includes local units that so limit membership;
  7. To enter into any contract with any person who:
    - i. Is required to have registered and failed to do so; or
    - ii. Have had their registration denied, suspended, or revoked;
  8. To commence activity pursuant to a contract before the Attorney General has been given the opportunity to review the contract pursuant to N.J.S.A. 45:17A-22;
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9. To permit a charitable sales promotion to be conducted on behalf of a charitable organization unless the charitable organization has obtained a written contract from the commercial co-venturer and given the Attorney General the opportunity to review the contract pursuant to N.J.S.A. 45:17A-22;
10. To make a solicitation which represents that tickets to an event will be donated for a charitable purpose, unless the following requirements have been met:
  - i. The fund raising counsel or independent paid fund raiser has obtained commitments, in writing and notarized, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept and for which they are able to provide transportation; copies of such written commitments shall be filed with the Attorney General;
  - ii. The independent paid fund raiser has taken measures to prevent solicitation of contributions for donated tickets in excess of the number of ticket commitments received from charitable organizations; and
  - iii. The number of tickets sold will not be greater than the number of seats available at the facility for each event or performance; or
11. To conduct a solicitation on behalf of, or in the name of, a charity without the knowledge or consent of the charity.

#### 13:48-13.3 Grounds for denial, suspension or revocation of any registration

- (a) After notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, any registration may be denied, suspended or revoked upon a finding that the registrant:
    1. Has filed a registration statement containing false or misleading facts or omitting material facts;
    2. Has violated or failed to comply with any of the provisions of the Act or the rules adopted under authority of the Act;
    3. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
    4. Has been convicted of any criminal offense committed in connection with the performance of activities regulated under the Act or any criminal offense involving untruthfulness or dishonesty or any criminal offense relating adversely to the registrant's fitness to perform activities regulated by the Act. For the purposes of this paragraph, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;
    5. Has had the authority to engage in charitable activities denied, revoked or suspended by New Jersey or any other state or jurisdiction;
    6. Has engaged in other forms of misconduct as may be determined by these rules; or
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7. Has filed a registration, contract, financial statement or other required filing that fails to satisfy the requirements of the Act or the rules set forth in this chapter.

#### 13:48-14.1 Civil penalties; alternative remedies

- (a) When a finding is made of a violation of the Act or these rules, after notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, in addition or as an alternative to revocation or suspension of a registration, a person may be ordered to:

1. Pay civil penalties in accordance with the Act as follows:
  - i. Any person who has not previously been found to have violated the Act shall, in addition to any other relief authorized by the Act or any other law, be liable for a civil penalty of not more than \$7,500 for the first violation;
  - ii. For a second violation, or if a person is found liable for more than one violation within a single proceeding, the liability for the second violation shall not exceed a civil penalty in the amount of \$15,000;
  - iii. For a third violation, or if a person is found liable for more than two violations within a single proceeding, the liability for a third or any succeeding violation shall not exceed a civil penalty in the amount of \$15,000 for each additional violation;
2. Cease and desist from any act or practice in violation of the Act or these rules or take necessary affirmative corrective action with regard to any unlawful act or practice; or
3. Restore to any person aggrieved by an unlawful act or practice any money or property, real or personal, acquired by means of any unlawful act or practice, except that the Attorney General shall not order restoration in a dollar amount greater than those monies received by the registrant or his agent or any other person violating the Act or these rules.

#### 13:48-14.2 Private actions

In addition to any other action or remedy available under the Act, a charitable organization aggrieved by a violation of N.J.S.A. 45:17A-32(c)(4) or N.J.A.C. 13:48-13.2(a)4, may initiate a civil action or assert a counterclaim in any court of competent jurisdiction against the violator. Upon establishing the violation, the charitable organization shall recover treble its damages or treble the violator's profits whichever is greater. In all actions under this subsection the court shall award reasonable attorney's fees, filing fees and reasonable costs of suit.

#### 13:48-14.3 Accountability of parent organization and local unit

- (a) Notwithstanding any other provision of this section to the contrary, a parent organization may be held accountable for actions related to information filed on behalf of a local unit only if the parent organization knew or should have known that it has filed information knowing that the information is false or misleading or knowing that material facts are omitted.

- (b) Notwithstanding any other provision of this section to the contrary, any local unit which has provided to its parent organization timely, truthful and complete information and otherwise conducted itself in compliance with the provisions of the Act, shall not be held accountable for the misconduct of a parent organization, including, but not limited to, the failure of the parent organization to file timely reports on behalf of the local unit.

#### 13:48-15.1 Organizations of law enforcement officers

- (a) In addition to all other requirements imposed by the Act and these rules, a charitable organization which limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or which is a parent organization which includes local units that so limit membership shall:
1. At least 10 days prior to initiating any solicitation campaign involving multiple solicitations, give written notice describing the nature, purpose and the proposed dates and location of the solicitations.
    - i. Local criminal law enforcement charitable organizations shall file completed Notices of Intent to Solicit Funds with the Attorney General and the county prosecutor of any county in which the solicitation will be made.
    - ii. A parent criminal law enforcement charitable organization with local units in more than one county shall file a completed Notice of Intent for each local unit to solicit Funds with the Attorney General and the Attorney General shall notify the appropriate county prosecutors.
    - iii. Notice of Intent to Solicit Funds forms are available upon request from the Division of Consumer Affairs at the address set forth in N.J.A.C. 13:48-1.4.
    - iv. The parent or local unit shall pay a filing fee for the 10-day notice in the amount set forth in N.J.A.C. 13:48-2.1(a)13.
  2. Upon request, the criminal law enforcement charitable organization shall make any records required by the Act and these rules available for inspection or provide an audited financial statement of financial records concerning the organization's fund raising activities to the Attorney General.
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